
Costs Decision

Hearing Held on 17 January 2018

Site visit made on 17 January 2018

by R J Jackson BA MPhil DMS MRTPI MCMi

an Inspector appointed by the Secretary of State

Decision date: 06 February 2018

Costs application in relation to Appeal Ref: APP/Y3940/W/3181886 Land at Empress Way, Ludgershall, Wiltshire

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Wiltshire Council for a full award of costs against Mr S H Crook.
 - The hearing was in connection with an appeal against the refusal of planning permission for outline application for residential development of up to 269 No dwellings (Use Class C3), a two form entry primary school, highways including extension to Empress Way, green infrastructure including open space and associated landscaping, infrastructure, drainage, utilities and other engineering works – external access from Empress Way not reserved.
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Decision

1. The application for an award of costs is refused.

Procedural matter

2. The application by the Council was made in writing, and although the response from the appellant was given verbally, this was on the basis of a statement being read out, and this was then submitted in writing. The Council did not have any final comments. The issues are therefore well known to the parties and I do not need to repeat them.

Reasons

3. The Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
4. The applicant's fundamental point was that the appeal had no reasonable prospect of success given that it considered the adopted development plan is up-to-date and no other material considerations, such as national planning policy, had been satisfactorily advanced to indicate the decision should have been made otherwise, or where other material considerations are advanced, there was inadequate supporting evidence¹.
5. While I have concluded that the proposal was contrary to the development plan in my view the material considerations put forward by the appellant were not

¹ Reference ID: 16-053-20140306

without reasonable merit. Some, such as the weight to be given to the emerging Wiltshire Site Allocations Development Plan Document (the WHSAP) had been considered in a recent appeal² elsewhere, and that decision might have led to a reconsideration whether it was appropriate to pursue the current appeal before the Hearing. However others, such as the weight to be given to the benefits of the provision of a site for a school, only became clear during the Hearing itself, and there were various implications that then flowed from that.

6. In light of this, I consider it was not unreasonable for the appellant to pursue the appeal.

Conclusion

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

RJ Jackson

INSPECTOR

² APP/Y3940/W/16/3162997